IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

WP(C).No. 13940 of 2007(H)

PETITIONER:

V.A. JOSE,
MEMBER NO.4530, RAMAPURAM REGIONAL SERVICE CO-OPERATIVE BANK LTD.NO.4111, RAMAPURAM, MEENACHIL, KOTTAYAM, RESIDING AT UZHUNNALIL HOUSE, RAMAPURAM, KOTTAYAM DISTRICT.

BY ADV. SRI.P.C.SASIDHARAN

RESPONDENTS:
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1. **THE KERALA STATE CO-OPERATIVE ELECTION COMMISSION, REPRESENTED BY ITS SECRETARY, CO-BANK TOWERS, TRIVANDRUM-695 033.**

2. **THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL), OFFICE OF THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, KOTTAYAM.**

3. **THE PART TIME ADMINISTRATOR, RAMAPURAM REGIONAL SERVICE CO-OPERATIVE BANK LTD. NO.4111,RAMAPURAM (THE ASSISTANT REGISTRAR (AUDIT) OFFICE OF THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (AUDIT), KOTTAYAM).**

4. **THE RAMAPURAM SERVICE CO-OPERATIVE BANK LTD.NO.4111, MEENACHIL, RAMAPURAM, KOTTAYAM, REPRESENTED BY ITS SECRETARY.**

BY ADV. SRI.O.D.SIVADAS for R1
BY GOVERNMENT PLEADER SRI. P.K.RAVIKRISHNAN for R2

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/08/2007, THE COURT ON 17/08/2007 DELIVERED THE FOLLOWING:

WPC.NO.13940/2007 H

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE ORDER OF THE JOINT REGISTRAR DTD. 08/01/07.

EXT.P2: COPY OF NEWS ITEM APPEARED IN DEEPIKA DAILY DTD. 29/12/2006.

EXT.P3: COPY OF UNAUDIT STATEMENT OF THE BANK FOR THE FINANCIAL YEAR 2005-06.

4TH RESPONDENT'S EXHIBITS:

EXT.R4(A): COPY OF THE AMENDMENT TO THE BYE-LAW DTD. 21/04/2007 PASSED BY THE EARLIER MANAGING COMMITTEE IN THE RAMAPURAM REGIONAL SERVICE CO-OPERATIVE BANK LTD. NO.4111.

EXT.R4(B): COPY OF THE RESOLUTION NO.78/2007 DTD. 21/04/2007 PASSED BY THE PART TIME ADMINISTRATOR IN THE RAMAPURAM REGIONAL SERVICE CO-OPERATIVE BANK LTD.NO.4111.

EXT.R4(C): COPY OF THE PROCEEDINGS NO.C.R.P.(1)257/07 DTD. 25/06/2007 ISSUED BYTHE JOINT REGISTRAR, KOTTAYAM.

EXT.R4(D): COPY OF THE RESOLUTION NO.123/2007 DTD. 04/07/2007 PASSED BY THE PART TIME ADMINISTRATOR IN THE RAMAPURAM REGIONAL SERVICE CO-OPERATIVE BANK LTD. NO.4111.

/TRUE COPY/

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K.M.JOSEPH, J.

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WP.(C) No.13940 of 2007

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Dated this the 17th day of August, 2007

JUDGMENT

Case of the petitioner in brief is as follows:

Petitioner is a member and former President of the fourth respondent Bank. A part-time administrator was appointed. His term was for a period of six months and it is to expire on 7.7.2007. Petitioner on inquiry was informed that election is not likely to be held within a period of six months. Petitioner has approached this court seeking a mandamus to compel the respondents to conduct election before the expiry of the term of the office of the Part-time Administrator, to issue a writ of mandamus order or directing compelling the Joint Registrar not to extend the term of the office of the third respondent and to declare that respondents 2 and 3 are duty bound to conduct election to the Managing Committee of the Society on the basis of Ext.P1.

2. Counter affidavit is filed by the fourth respondent stating inter alia as follows:

Ext.R4(a) is an amendment approved by the earlier Managing Committee as per which the fee for A Class members was enhanced to Rs.25/- and those members having membership fee less than Rs.25/- were directed to remit balance amount before 31.3.2007. Thereafter an additional affidavit has been filed by the Secretary of the fourth respondent Bank. It is stated that by Ext.R4(c) the term has been extended for six months from 8.7.2007. It is stated that the second respondent has directed the Administrator to take necessary steps to conduct election and to hand over charge to the new Committee within the extended period and the election is scheduled to be held on 9.12.2007. It is stated that Ext.R4(d) resolution is taken, as per which the work for preparation of the voters' list is entrusted.

3. Petitioner has filed a reply affidavit also. Learned counsel for the petitioner Sri.P.C.Sasidharan would contend that the term of the Administrator came to an end on 7.7.2007 and there was no basis for not conducting the election. It is opposed to the principle of democracy not to hold election at the earliest, he contends. He would contend that there is no need to postpone the holding of the election till 9.12.2007 as

stated by the fourth respondent. He would submit that the list of members can easily be made . He points out that as per Rule 35A the election has to be conducted under the supervision of the Election Commission. What he would submit is that election has to be ordered to be held at any rate within sixty days from today.

4. Per contra, Sri. O.D. Sivadas, learned counsel for the respondents points out that number of members has to be revised consequent upon the effect of the decision of the General Body, as per which members having membership fee of less than Rs.25/- are directed to remit the balance amount before 31.3.2007 and having regard to the steps taken, it may not be correct to say that the Committee has not taken steps to conduct election. The election will be held on 9.12.2007, he points out. Of course petitioner points out the contents of Ext.R4(d) and he contends with reference to Rule 35A that it is the Electoral Officer under the said provision, who has to prepare the list. This is countered by the respondents by pointing out the very same provision to contend that it is the duty of the Chief Executive to prepare, up date the list as per the Rules and submit voters list duly

approved by the Committee to the Electoral Officer.

5. Having regard to all facts, I feel that the writ petition can be disposed of recording the submission of the respondents that election will be held on 9.12.2007.

Accordingly the writ petition is disposed of recording the stand of the respondents that election to the Committee will be held on 9.12.2007 and further directing respondents 1 to 3 to do the needful so that the election is held to the Committee of the fourth respondent Society on 9.12.2007 itself.

(K.M. JOSEPH, JUDGE)

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